

**STATE AND COUNTY
LAWS ON SMOKING & TOBACCO USE
IN HAWAI'I**



HAWAI'I DEPARTMENT OF HEALTH

The following is a summary of Hawai'i's State and County laws on smoking and tobacco.

SMOKING IN THE WORKPLACE



GOVERNMENT OFFICES

Hawai'i State Law HRS 328K [PART II]

Each state or county agency is mandated by law to have and enforce a policy that will, in effect, protect the rights of the non-smokers in the workplace.

FINES: Civil penalties up to \$500

ENFORCEMENT: State Director of Health

GOVERNOR'S EXECUTIVE MEMO NO. 97-14

Requires the Executive Branch to establish a smoke-free environment for State employees and members of the public visiting or using State facilities.

Exceptions:

- Any residential accommodation for persons voluntarily or involuntarily residing, on a temporary or a long-term basis, in a building owned, leased, or rented by the State Government;
- Portions of state-owned buildings leased, rented, or otherwise provided in their entirety to nonstate parties;
- Places of employment in the private sector or other nonstate governmental units that serve as the permanent or intermittent duty station of one or more State employees;
- The head of any agency may establish limited and narrow exceptions that are necessary to accomplish agency missions. Such exceptions shall be in writing, approved by the agency head, and to the fullest extent possible provide protection of nonsmokers from exposure to environmental tobacco smoke. Authority to establish such exceptions may not be delegated.

OTHER SMOKING LAWS RELATING TO WORKPLACE BY COUNTIES:

City and County of Honolulu

Chapter 41 Article 21 of Revised Ordinances of Honolulu, as amended (Refer to Bill 22, Ordinance 97-20)

- Smoking is prohibited in all areas within city-owned or controlled buildings;
- All areas in business or charitable establishments;
- All enclosed or partially enclosed areas within commercial buildings;
- All enclosed or partially enclosed areas within multifamily dwellings that are open to the common use of all unit owners or residents, including but not limited to lobbies, hallways, corridors, stairways, waiting areas, and recreation areas within multifamily dwellings.

Exceptions:

- Private residences, except when used as a child care, adult day care or health care facility;
- Any property owned, controlled or leased by state or federal government entities;
- Any bar;
- Any hotel room;
- Any nightclub.
- Any restaurant (Amendment to Chapter 41, Article 21, Honolulu Bill 99, Ordinance 02-06 prohibits smoking in restaurants; see Restaurants section).

FINE: First violation: Not more than \$100

Second violation within one year of the date of the first violation: Not more than \$200

Additional violation within one year of the date of the preceding violation: Not more than \$500

ENFORCEMENT: Honolulu Police Department

Maui County**Chapter 8.20 Maui County Code, as amended (Refer to Bill 45, Ordinance 3078)**

- Any enclosed or partially enclosed area or building owned, leased, operated or maintained by the County;
- Any areas of business or charitable establishment that have been designated by the owner, operator, manager or other persons having control of such establishment as a no-smoking area and marked with specific signs;
- All enclosed or partially enclosed areas within commercial buildings not subject to the exclusive use and possession of a tenant and open to the common use of the tenants of the building and their employees and customers, other than bars, including but not limited to common entrance areas, lobbies, malls, hallways, corridors, escalators, stairways, and waiting areas or rest areas within commercial buildings.

Exceptions:

- Residential dwelling units which regulated herein as multifamily dwellings;
- Any bar.

FINE: Any person violating any provisions in the law by smoking shall be fined not less than \$25 and not more than \$50 (as amended in Sec. 8.20.040 Maui County Code)

ENFORCEMENT: Maui Police Department

SIGNS

Clearly legible signs that include the words “SMOKING PROBITED BY LAW” with letters of not less than one inch in height and the international no-smoking symbol shall be conspicuously posted in all places generally open to the public where smoking is prohibited by the owner, operator, manager or other person having control of such place.

PENALTIES: A fine of not less than \$25 and not more than \$50 can be assessed for signage non-compliance, if situation is not corrected within 10 days. Each violation

will constitute a separate offense.

ENFORCEMENT: Maui Police Department

Kaua'i County

Chapter 22, Article 8 of Kaua'i County Code, 1987, as amended

(Refer to Bill No. 2048, Ordinance 795)

- Any enclosed or partially enclosed area or building owned, leased, operated or maintained by the County;
- All areas in business or charitable establishments;
- All enclosed or partially enclosed areas within multifamily dwellings that are open to the common use of all unit owners or residents including, but not limited to, lobbies, hallways, corridors, stairways, waiting areas, and recreation areas within multifamily dwellings;
- All enclosed or partially enclosed areas within commercial buildings not subject to the exclusive use and possession of a tenant and open to the common use of the tenants of the building and their employees and customers, including, but not limited to, common entrance areas, lobbies, malls, hallways, corridors, escalators, stairways, and waiting or rest areas within commercial buildings;
- In the event the building is both a multifamily dwelling and a commercial building, all areas except for private residences;
- Any child care, adult day care or health care facility.

Exceptions:

- Any bar;
- Private residences, except when used as a child care, adult day care or health care facility;
- Any property owned, controlled or leased by state or federal government entities;
- Any hotel room;
- Small businesses, excluding restaurants;
- "Part-time Restaurant/Bar" only during the posted, specific time the establishment operates as a bar;
- Separate open air area of a restaurant.

FINE: \$50 per calendar day for each violation. Each day that the non-compliance exists shall constitute a separate violation. Each violation shall constitute a separate offense.

ENFORCEMENT: Kaua'i Police Department

SIGNS

Clearly legible signs which include the words "SMOKING PROHIBITED BY LAW" with letters of not less than one inch in height shall be conspicuously posted in all places where smoking is prohibited. The sign shall be posted by the owner, operator, manager or other person having control of such places. Alternative means of notification (individual place cards, film clips, etc.) may be employed if the effect thereof is equivalent to the notice given by the signs described in the preceding sentence.

PENALTY: A \$50 per calendar day for each violation. Each day that the non-compliance exists shall constitute a separate violation. Each violation shall constitute a separate offense.

ENFORCEMENT: Department of Public Works, Building Division

Hawai'i County

Chapter 14, Article 4 Section 14-21 Hawai'i County Code, as amended

(Bill No. 260, Ordinance 03 112)

Prohibition of smoking in certain places.

- Any enclosed or partially enclosed area or building owned, leased, operated, or maintained by the County;
- All business and not-for-profit establishments (also includes common areas, including but not limited to work areas, elevators, hallways, cafeterias, employee lounges, stairs, and restrooms);
- All enclosed or partially enclosed areas within multifamily dwellings that are open to the common use of all unit owners or residents (also including but not limited to lobbies, elevators, restrooms, hallways, corridors, stairways, waiting areas and recreation areas);
- All enclosed or partially enclosed areas within commercial buildings not subject to the exclusive use and possession of a tenant and open to the common use of the tenants of the building and their employees and customers (also including but not limited to common entrance areas, restrooms, lobbies, elevators, malls, hallways, corridors, escalators, stairways, and waiting or rest areas within commercial buildings);
- In the event a building is both a multifamily dwelling and a commercial building as defined in this article, all common use areas except for private residences;
- All enclosed or partially enclosed areas within hotels that are open to the common use of the public, hotel guests, or hotel employees (also including but not limited to restrooms, lobbies, elevators, hallways, corridors, stairways, waiting areas, recreation areas, banquet halls, banquet rooms, and ballrooms);
- In the event a building is both a commercial building and a hotel, all common use areas except for hotel rooms rented to guests and designated as smoking rooms;
- Bowling alleys (if a bowling alley contains an outdoor, open air or partially enclosed seating area where food and beverages are served, smoking is prohibited in this area of the establishment);
- All vehicles owned or leased by the County;
- Taxicabs;
- Private residences, during hours of operation, when used as a licensed child care, adult day care or health care facility, except in residences where the care facility is physically detached from the residence or is separated from the owner's areas;
- Smoking is prohibited within a reasonable distance from any entrance to, exit from, or any fresh air intake of any enclosed area where smoking is prohibited to insure that tobacco smoke does not enter the enclosed area through entrances, windows, ventilation systems, or other means;
- Areas within private residences, during hours of operation, that are used for the

care of patients or clients in licensed residential care homes, except in residences where the care facility is physically detached from the residence or is completely separated by a solid wall with no other openings except closable doors or windows, which shall remain closed during hours of operation from the owner's area where clients or patients are not allowed.

Exceptions:

- Private residences when not used as a licensed child care, adult day care or health care facility;
- Individual hotel and motel rooms that are rented to guests and are designated as smoking rooms;
- Bars.

FINE: Any person violating any of the provisions of this article shall be fined not less than \$25 and not more than \$50.

A person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with the provisions of this article shall be guilty of an infraction, punishable by:

- (1) A fine not exceeding \$100 for a first violation.
- (2) A fine not exceeding \$200 for a second violation within one year of the date of the first violation; and
- (3) A fine not exceeding \$500 for each additional violation within one year of the date of the preceding violation.

ENFORCEMENT: Hawai'i County Police Department

SIGNS

"No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly and conspicuously posted in every public place and place of employment where smoking is prohibited by this article, by the owner, operator, manager, or other person having control of such place. Every public place and place of employment where smoking is prohibited by this article shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.

PENALTY: A notice of violation shall be issued and the person shall comply within 10 days. Thereafter, the violation shall carry a fine of not less than \$25 and not more than \$50.

A person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with the provisions of this article shall be guilty of an infraction, punishable by:

- (1) A fine not exceeding \$100 for a first violation.
- (2) A fine not exceeding \$200 for a second violation within one year of the date of the first violation; and
- (3) A fine not exceeding \$500 for each additional violation within one year of the date of the preceding violation.

SMOKING IN PUBLIC PLACES

Hawai'i State Law HRS 328K [PART I] SMOKING

Smoking is prohibited in the following places within the State:



ELEVATORS

(Also included in Honolulu, Maui, Hawai'i and Kaua'i County Ordinances)

No smoking in any elevators used by the public, including elevators in apartment and other multi-unit residential buildings.



HEALTH CARE FACILITIES

No smoking in semi-private rooms, wards, waiting rooms, lobbies, and public hallways of public and private health care facilities, but not limited to hospitals, clinics, and physicians' and dentists' offices. Smoking shall be permitted in a private or semi-private room when neither patient occupying such room objects.

Honolulu, Maui, Kaua'i and Hawai'i County Ordinances:

Smoking is prohibited in patient rooms, wards, waiting rooms, lobbies and public hallways of public and private health care facilities, including, but not limited to, hospitals, clinics, and physicians' and dentists' offices.



RESTAURANTS

City and County of Honolulu

Amendment of Chapter 41 Article 21 of Revised Ordinance of Honolulu

(Bill No. 99, Ordinance 02-06)

- Effective July 1, 2002, smoking is prohibited in all restaurants, except that:
Smoking is allowed in separate open air areas of a restaurant provided the area is open on every side abutting the indoor area of the restaurant and is separated from the rest of the restaurant by EITHER a solid wall without any opening except for a door or serving window that stays closed except when a person or items are passed through, OR at least 10 feet of space that is outside the walls of the building housing the restaurant.
Smoking is allowed in a separate bar area of a restaurant IF the bar area is separately ventilated from any dining area of the restaurant, AND totally separated from any dining area of the restaurant by a floor-to-ceiling solid wall, with or without a closable door. The door must remain closed except when a person passes through.
Effective July 1, 2003, smoking is prohibited in any separate bar area of a restaurant.

Excluded are:

- Nightclubs
- Stand-alone bars

FINE: First Violation: Not more than \$100

Up to \$200 and \$500 for second and third violations within one year of the previous violation

ENFORCEMENT: Honolulu Police Department

SIGNS

Clearly legible signs which include the words “SMOKING PROHIBITED BY LAW” with letters of not less than one inch in height must be conspicuously posted in all places where smoking is prohibited.

PENALTIES FOR SIGN VIOLATIONS: A notice of violation shall be issued and the person shall comply within 10 days. Thereafter, the violation shall carry a fine of not more than \$25. Each violation cited is a separate offense.

ENFORCEMENT OF SIGNAGE: Department of Planning and Permitting of the City and County of Honolulu

Maui County Ordinance

Amendment to Chapter 8.20 Maui County Code (Bill No. 45, Ordinance 3078)

- Effective January 1, 2003, smoking is prohibited in all areas of restaurants, including the bar area within a restaurant’s premises.

Excluded are:

- Nightclubs
- Stand-alone bars

FINE: Any person violating any provisions of this chapter shall be fined not less than \$25 and not more than \$50.

ENFORCEMENT: Maui Police Department

SIGNS

Clearly legible signs which include the words “SMOKING PROHIBITED BY LAW” with letters of not less than one inch in height and the international no-smoking symbol shall be conspicuously posted in all places where smoking is prohibited.

PENALTIES FOR SIGN VIOLATIONS: A notice of violation shall be issued and the person shall comply within 10 days. Thereafter, a fine of not less than \$25 and not more than \$50.

ENFORCEMENT OF SIGNAGE: Maui Police Department

Kaua’i County Ordinance

Amendment to Chapter 22 Article 8 Kaua’i County Code 1987 (Bill No. 2048, Ordinance 795)

- Effective January 1, 2003, smoking is prohibited in any restaurant, except that: Smoking may be permitted in a separate open air area of a restaurant provided the area is unenclosed or open to the outside environment AND it is separated by at least 10 feet of space from the main dining area. If the main dining area of a restaurant is outdoors, open air or partially enclosed, it is to be smoke-free. Some

establishments may choose to operate as a “Part-time Restaurant/Bar,” whereby the establishment changes its use from that of a restaurant to a bar during a specified posted time. Smoking is permitted only during the specified times the establishment is operating as a bar.

Excluded are:

- Nightclubs
- Stand-alone bars
- “Part-time Restaurant/Bar” only during the posted, specific time the establishment operates as a bar

FINE: \$50 per calendar day for each violation. Each day that the non-compliance exists shall constitute a separate violation. Each violation shall constitute a separate offense.

ENFORCEMENT: Kaua‘i Police Department

SIGNS

Clearly legible signs which include the words “SMOKING PROHIBITED BY LAW” with letters of not less than one inch in height shall be conspicuously posted in all places where smoking is prohibited.

In the case of any “Part-time Restaurant/Bar” which permits smoking during the hours the establishment operates as a bar, the owner, operator, manager or other person having control of the establishment shall post a clearly legible sign with letters of not less than one inch in height, stating “SMOKING PROHIBITED BY LAW EXCEPT DURING THE HOURS OF___ TO___ , WHEN OPERATING AS A BAR ONLY.”

This sign shall be conspicuously posted at all entrances normally used by the public.

PENALTIES FOR SIGN VIOLATIONS: A fine of \$50 per calendar day for each violation. Thereafter, a fine of \$50 per calendar day for each violation. Each day that the non-compliance exists shall constitute a separate violation and each violation constitutes a separate offense.

ENFORCEMENT OF SIGNAGE: Kaua‘i Department of Public Works’ Building Division

Hawai‘i County Ordinance

Amendment to Chapter 14, Article 4 (Bill No. 260, Ordinance No. 03 112)

- Effective February 1, 2004, smoking is prohibited in all restaurants, except that: Through August 31, 2004, smoking shall be permitted in a separate bar area of a restaurant when the business operating the restaurant refrains from designating the area as nonsmoking. A “separate bar area of a restaurant” means an indoor area of a restaurant that is in compliance with all of the following:
The area is devoted primarily to the serving of alcoholic beverages for consumption by patrons in the area.
On a monthly basis, the gross sales of food to patrons for consumption in the area are less than one-third (1/3) of the gross sales of alcoholic beverages to patrons for consumption in the area.
- Beginning September 1, 2004, a restaurant may continue to operate a separate bar

area, as defined above, provided that:

There is a physical separation (consisting of solid walls with no door or window opening into the restaurant area) between the separate bar area and restaurant; The entrance into the bar area is totally separate and at least 15 feet from the entrance into the restaurant; and

The restaurant and separate bar area have separate ventilation systems.

Excluded are:

- Nightclubs
- Stand-alone bars

FINE: Any person violating any of the provisions of this article shall be fined not less than \$25 and not more than \$50.

ENFORCEMENT: Any officer or employee of the County duly authorized to issue a summons or citation, or any police officer.

SIGNS

“No Smoking” signs or the international “No Smoking” symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it shall be clearly and conspicuously posted in every public place and place of employment where smoking is prohibited by this article, by the owner, operator, manager, or other person having control of such place.

PENALTIES FOR SIGN VIOLATION: A notice of violation shall be issued and the person shall comply within 10 working days from the date of the issuance of notice of violation. Thereafter, the violation shall carry a fine of not less than \$25 and not more than \$50.

A person who owns, manages, operates, or controls a public place or place of employment will be fined for non-compliance as follows:

- A fine not exceeding \$100 for a first violation;
- A fine not exceeding \$200 for a second violation within one year of the date of the first violation; and
- A fine not exceeding \$500 for each additional violation within one year of the date of the preceding violation.



THEATRES

(Also included in Honolulu, Maui, Kaua‘i and Hawai‘i County Ordinances)

Smoking is prohibited in any room which is used primarily for exhibiting any motion picture, stage drama, dance, musical performance or other similar performance during the time that the room, hall or auditorium is open to the public for such exhibitions.



MUSEUMS, LIBRARIES, AND GALLERIES

(Also included in Honolulu, Maui, Hawai‘i and Kaua‘i County Ordinances)

Smoking is prohibited.



MEETING AND CONFERENCE ROOMS

(Also included in Hawai'i and Kaua'i County Ordinances)

(In State or County owned or controlled buildings)

Smoking is prohibited.



ENCLOSED AUDITORIUMS AND SPORTS AREAS

(Also included in Hawai'i and Kaua'i Ordinances)

(In State or County owned or controlled buildings)

Smoking is prohibited.



ENCLOSED COMMUNITY CENTERS

(Also included in Hawai'i and Kaua'i Ordinances)

(In State or County owned or controlled buildings)

Smoking is prohibited in enclosed community centers where people may gather for meetings, parties or any other purpose.



STATE AIRPORTS

Smoking is prohibited in waiting areas, baggage claim areas and check-in counters within buildings.



SERVICE COUNTERS, RECEPTION OR WAITING AREAS AND ALL AREAS OPEN TO THE PUBLIC

In State or County owned buildings, smoking is prohibited in all areas open to the public, including service counters and reception or waiting areas.



BANKS, CREDIT UNIONS, FINANCIAL SERVICES LOAN COMPANIES, RETAIL STORES AND SAVINGS AND LOAN ASSOCIATIONS

(Also included in Honolulu, Maui, Hawai'i and Kaua'i County Ordinances)

Smoking is prohibited.



RESTROOMS

(Also included in Honolulu, Maui, Hawai'i and Kaua'i County Ordinances)

(Both government and private)

Smoking is prohibited in all public restrooms.



TAXICABS WHEN CARRYING NON-SMOKING PASSENGERS

Smoking is prohibited while carrying non-smoking passengers.

Honolulu and Maui County Ordinances

- Any taxicab designated as a non-smoking taxicab by its owner or driver. Specific signage are required in designated no-smoking taxicabs.

Hawai'i County Ordinance:

- Smoking is prohibited in taxicabs.



CRUISE SHIPS

Non-smoking seating options are required in all dining areas of any cruise ship operating in Hawai'i jurisdictional waters.

SIGNS

Clearly legible signs which include the words "SMOKING PROHIBITED BY LAW" with letters of not less than one inch in height must be posted by persons having control of such places open to the public where smoking is prohibited.

"SMOKING PROHIBITED BY LAW" signs shall be posted in areas adjacent to smoking areas so that a clear delineation exists.

FINES FOR HAWAII STATE SMOKING IN PUBLIC PLACES: Up to \$20

ENFORCEMENT: Police in each respective jurisdiction

REFER TO EACH COUNTY PENALTIES FOR MORE RESTRICTED SMOKING AREAS BY COUNTIES NOT ADDRESSED BY LAW.

NOTHING SHALL PROHIBIT A COUNTY FROM ENACTING MORE STRINGENT ORDINANCES.

ADDITIONAL SMOKING PROHIBITIONS IN PUBLIC PLACES BY COUNTIES:

City and County of Honolulu

Chapter 41 Article 21 of Revised Ordinance of Honolulu

Smoking is prohibited in the following places within the City and County of Honolulu:

- All enclosed or partially enclosed areas within multifamily dwellings that are open to the common use of all unit owners or residents;
- Schools;
- Hotels, except individual hotel rooms;
- Any financial institution;
- Industrial, commercial or wholesale establishments;
- Any utility;
- Retail establishments where goods or services are sold, leased or otherwise provided to the public or to another business;
- Any restroom open to the public in places specified in this section;
- All vehicles owned or leased by the City;
- Honolulu Zoo;
- Hanauma Bay Nature Preserve;
- Koko Crater Botanical Garden;
- Waikiki Shell.

Exceptions:

- Private residences, except when used as a child care, adult day care or health care facility;
- Any property owned, controlled or leased by State or Federal government entities;
- Any hotel room;
- Any bar that is not within an enclosed or partially enclosed food court.

FINE: First violation: Not more than \$100

Second violation within one year of the date of the first violation: Not more than \$200

Additional violation within one year of the preceding violation: Not more than \$500

ENFORCEMENT: Honolulu Police Department

SIGNS

Clearly legible signs which include the words “SMOKING PROHIBITED BY LAW” with letters of not less than one inch in height must be conspicuously posted in all places where smoking is prohibited.

PENALTIES: A notice of violation shall be issued and the person shall comply within 10 days. Thereafter, the violation shall carry a fine of not more than \$25. Each violation cited is a separate violation.

ENFORCEMENT: Honolulu Police Department

Maui County**Chapter 8.20 Section 8.20.030 Maui County Code, as amended
(Bill 45, Ordinance 3078)**

All areas open to the public in the following business establishments:

- Food and grocery stores and supermarkets;
- Drug stores;
- Banks, savings and loan associations, financial services loan companies, and credit unions;
- Day care nurseries during business hours;
- Retail stores, except for retail tobacco stores;
- Any restroom open to the public in places specified in this section;
- Any areas of any business or charitable establishment that have been designated by the owner, operator, manager or other persons having control of such establishment as a no-smoking area and marked with signs;
- All enclosed or partially enclosed areas within multifamily dwellings that are open to the common use of all unit owners or residents, including but not limited to lobbies, hallways, corridors, stairways, waiting areas and recreation areas;
- All enclosed or partially enclosed areas within commercial buildings not subject to the exclusive use and possession of a tenant and open to the common use of the tenants of the building and their employees and customers, other than bars, including but not limited to common entrance areas, lobbies, malls, hallways, corridors, escalators, stairways, and waiting or rest areas within commercial buildings;
- All enclosed or partially enclosed areas within hotels that are open to the common

use of the public, hotel guests, or hotel employees, other than bars, including but not limited to, lobbies, hallways, corridors, stairways, waiting areas, recreation areas, banquet halls, banquet rooms, and ballrooms;

- All vehicles owned or leased by the County;
- Any taxicab designated as a no-smoking taxicab by its owner or driver, provided that the no-smoking taxicab displays the international “no-smoking” symbol in specific locations;
- Any restaurant, including a bar area within a restaurant’s premises.

FINE: Any person violating any of the provisions of this chapter shall be fined not less than \$25 and not more than \$50.

ENFORCEMENT: Any officer or employee of the city duly authorized to issue a citation or any police officer.

SIGNS

Clearly legible signs that include the words “SMOKING PROHIBITED BY LAW” with letters of not less than one inch in height and the international no-smoking symbol shall be conspicuously posted in all places generally open to the public where smoking is prohibited by this chapter, by the owner, operator, manager or other person having control of such place.

PENALTY: A notice of violation shall be issued and the person shall comply within 10 days. Thereafter, the fines are not less than \$25 and not more than \$50.

ENFORCEMENT OF SIGNAGE: Department of Fire Control

Kaua’i County

Chapter 22, Article 8 Kaua’i County Code, as amended (Bill No. 2048, Ordinance No. 795)

Smoking is prohibited in the following places within the County of Kaua’i:

- Any school;
- Any hotel, except individual hotel rooms, separate open air areas, and bars;
- Any financial institution;
- Any industrial, commercial or wholesale establishment;
- Any utility;
- Any retail establishment where goods or services are sold, leased or otherwise provided to the public or to another business including, but not limited to, food and grocery stores;
- Any restroom open to the public in places specified in this section.

FINE: \$50 per calendar day for each violation. Each day that the non-compliance exists shall constitute a separate violation. Each violation shall constitute a separate offense.

ENFORCEMENT: Kaua’i Police Department

SIGNS

Clearly legible signs which include the words “Smoking Prohibited by Law” with letters

of not less than one inch in height shall be conspicuously posted in all places where smoking is prohibited. The sign shall be posted by the owner, operator, manager or other person having control of such places. Alternative means of notification (individual place cards, film clips, etc.) may be employed if the effect thereof is equivalent to the notice given by the signs described in the preceding sentence.

PENALTY: A \$50 per calendar day for each violation. Each day that the non-compliance exists shall constitute a separate violation. Each violation shall constitute a separate offense.

ENFORCEMENT: Department of Public Works, Building Division

Hawai'i County

Chapter 14, Article 4 Section 14-21 Hawai'i County Code, as amended

(Bill No. 260, Ordinance 03 112)

Prohibition of smoking in certain places.

- Any enclosed or partially enclosed area or building owned, leased, operated, or maintained by the County;
- All business and not-for-profit establishments (also includes common areas, including but not limited to work areas, elevators, hallways, cafeterias, employee lounges, stairs, and restrooms);
- All enclosed or partially enclosed areas within multifamily dwellings that are open to the common use of all unit owners or residents (also including but not limited to lobbies, elevators, restrooms, hallways, corridors, stairways, waiting areas and recreation areas);
- All enclosed or partially enclosed areas within commercial buildings not subject to the exclusive use and possession of a tenant and open to the common use of the tenants of the building and their employees and customers (also including but not limited to common entrance areas, restrooms, lobbies, elevators, malls, hallways, corridors, escalators, stairways, and waiting or rest areas within commercial buildings);
- In the event a building is both a multifamily dwelling and a commercial building as defined in this article, all common use areas except for private residences;
- All enclosed or partially enclosed areas within hotels that are open to the common use of the public, hotel guests, or hotel employees (also including but not limited to restrooms, lobbies, elevators, hallways, corridors, stairways, waiting areas, recreation areas, banquet halls, banquet rooms, and ballrooms);
- In the event a building is both a commercial building and a hotel, all common use areas except for hotel rooms rented to guests and designated as smoking rooms;
- Bowling alleys (if a bowling alley contains an outdoor, open air or partially enclosed seating area where food and beverages are served, smoking is prohibited in this area of the establishment);
- All vehicles owned or leased by the County;
- Taxicabs;
- Private residences, during hours of operation, when used as a licensed child care, adult day care or health care facility, except in residences where the care facility is physically detached from the residence or is separated from the owner's areas;

- Smoking is prohibited within a reasonable distance from any entrance to, exit from, or any fresh air intake of any enclosed area where smoking is prohibited to insure that tobacco smoke does not enter the enclosed area through entrances, windows, ventilation systems, or other means;
- Areas within private residences, during hours of operation, that are used for the care of patients or clients in licensed residential care homes, except in residences where the care facility is physically detached from the residence or is completely separated by a solid wall with no other openings except closable doors or windows, which shall remain closed during hours of operation from the owner's area where clients or patients are not allowed.

Exceptions:

- Private residences when not used as a licensed child care, adult day care or health care facility;
- Individual hotel and motel rooms that are rented to guests and are designated as smoking rooms;
- Bars.

FINE: Any person violating any of the provisions of this article shall be fined not less than \$25 and not more than \$50.

A person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with the provisions of this article shall be guilty of an infraction, punishable by:

- (1) A fine not exceeding \$100 for a first violation.
- (2) A fine not exceeding \$200 for a second violation within one year of the date of the first violation; and
- (3) A fine not exceeding \$500 for each additional violation within one year of the date of the preceding violation.

ENFORCEMENT: Hawai'i County Police Department

SIGNS

"No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly and conspicuously posted in every public place and place of employment where smoking is prohibited by this article, by the owner, operator, manager, or other person having control of such place.

Every public place and place of employment where smoking is prohibited by this article shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.

PENALTY: A notice of violation shall be issued and the person shall comply within 10 days. Thereafter, the violation shall carry a fine of not less than \$25 and not more than \$50.

A person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with the provisions of this article shall be guilty of an infraction, punishable by:

- (1) A fine not exceeding \$100 for a first violation.
- (2) A fine not exceeding \$200 for a second violation within one year of the date of the first violation; and
- (3) A fine not exceeding \$500 for each additional violation within one year of the date of the preceding violation.



CHILD CARE FACILITIES

Hawai'i State Law HRS 346-158

(Also included in Honolulu, Maui, Kaua'i and Hawai'i County Ordinances)
Smoking is prohibited in all licensed facilities during hours of operation.

FINE: Up to \$500

ENFORCEMENT: Licensing social workers



FIRE DANGER PERIODS, BURNING PERMITS, SETTING FIRES, PENALTIES

Hawai'i State Law HRS 185-7

During fire danger periods within forest reserves, public hunting areas, wildlife and plant sanctuaries, and natural area reserves in any branch, the manager may prohibit smoking in specified areas, including in automobiles operating in the area.

FINE: \$250 to \$4,000 and person shall be held liable for restitution for any suppression costs and damages to public or private property

ENFORCEMENT: Any law enforcement official

SMOKING POLICIES



ALOHA STADIUM POLICY

Smoking is prohibited in all public seating sections. Smoking permitted in the outer lower and upper concourse, press box areas and outside the stadium property.



TOBACCO-FREE SCHOOL SYSTEM POLICY

Smoking is prohibited on all public school campuses, at school-sponsored activities, in school vehicles, and administrative offices.



CIGARETTE SALES

Sale includes: every act of selling; to solicit and receive an order for; to have, or keep or offer, or expose for sale; to deliver for value or in any other way than purely gratuitously; to peddle; to keep with intent to sell; and to traffic in.



VENDING MACHINES

Hawai'i State Law HRS 328K-21 (Supp. 2002)

The placement of cigarette vending machines is restricted to locations such as bars, nightclubs, or any establishment for which the minimum age for admission is 21.

FINE: Up to \$1,000 per day for each violation
ENFORCEMENT: in each respective jurisdiction



LUNCH WAGONS

Hawai'i State Law HRS 328K-21

The sale or free distribution of cigarettes by lunch wagons is prohibited within 1,000 feet of any public or private elementary or secondary school grounds.

FINE: Up to \$1,000 per day for each violation
ENFORCEMENT: Police in each respective jurisdiction



PROHIBITED CIGARETTE SALES OF LESS THAN TWENTY

Hawai'i State Law HRS 712-1257

(Act 201, Section 2, SLH 2000, amending §712-1257 (4), H.R.S.)

Prohibits the sale of single cigarettes or packs of cigarettes containing less than 20 cigarettes.

Also prohibits the sale of cigarettes in anything other than in sealed packages originating with the manufacturer and bearing the health warning required by law.

FINE: Not more than \$2,500 for the first offense. Any subsequent offense shall subject the person to a fine of not less than \$100 and not more than \$5,000. A person who knowingly violates Act 201, shall be guilty of a class C felony.

ENFORCEMENT: Police in each police jurisdiction



STAMPING OF CIGARETTES

Hawai'i State Law HRS Chapter 245

As of April 1, 2001, all cigarette packages for sale must have a tax stamp affixed to the bottom of each cigarette package.

Session Laws of Hawai'i 2003, pursuant to Act 77, refines the enforcement responsibilities of the Department of the Attorney General regarding enforcement of the tobacco Master Settlement Agreement, cigarette tax stamping requirements, the "gray market" enforcement requirements, and tobacco reporting requirements.

PENALTY: Fines and/or imprisonment

ENFORCEMENT: Department of Attorney General

The attorney general may seek assistance in enforcement from other law enforcement agencies.



EXPORT AND FOREIGN CIGARETTES

Hawai'i State Law Chapter HRS §245-51 et. seq.

Prohibits the sale and distribution of cigarettes designated for export and sale outside the United States and the altering of cigarette packages.

PENALTY: Fines and imprisonment

ENFORCEMENT: The Department of the Attorney General, the prosecuting attorneys of various counties, and the police department of various counties



BIDI CIGARETTE AND HERBAL CIGARETTE PROHIBITION

City and County of Honolulu, Chapter 40 of Revised Ordinance of Honolulu 1990, as amended

Ordinance 00-23: Prohibits selling, giving or bartering away, or furnishing to any other person bidi cigarettes.

Ordinance 00-60: Prohibits selling, giving or bartering away, or furnishing to an individual under eighteen years of age herbal cigarettes.

FINE: First offense: Up to \$500

Subsequent Offenses: \$500-\$1,000

ENFORCEMENT: Honolulu Police Department



TOBACCO EXCISE TAX

Hawai'i State Law HRS § 245-3

Session Laws of Hawai'i 2002, pursuant to Act 246, increases the cigarette tax from 5 cents for each cigarette to 6 cents after September 30, 2002, 6.5 cents after June 30, 2003, and 7 cents after June 30, 2004.

ENFORCEMENT: The Department of Taxation and the Department of the Attorney General

TOBACCO PROMOTIONS



DISTRIBUTION OF SAMPLE CIGARETTE OR TOBACCO PRODUCTS, CIGARETTE OR TOBACCO PROMOTIONAL MATERIALS AND COUPONS REDEEMABLE FOR CIGARETTE OR TOBACCO PRODUCTS OR PROMOTIONAL MATERIALS

Hawai'i State Law HRS 328K-22 (Session Laws of Hawai'i, pursuant to Act 272)

(Also included in Honolulu and Maui County Ordinances)

Prohibits the distribution of:

- Sample cigarettes or tobacco products,
- Coupons redeemable for cigarette or tobacco products in or on any public street, sidewalk or park, or within 1,000 feet of any school attended by minors.

Exceptions:

- Private commercial establishments, such as stores where tobacco products are sold, as long as such distribution is not visible to the public from outside the establishment,
- Commercial establishments where access to the premises by persons under eighteen years of age is prohibited by law.

FINE: Up to \$1,000 (Fine under Honolulu County Ordinance 94-82 and Maui County Ordinance Chapter 8.19: Up to \$500)

ENFORCEMENT: The Department of the Attorney General

Police in each respective jurisdiction
(Enforcement under Honolulu and Maui County Ordinances: Police in each respective jurisdiction)

ADVERTISING OF TOBACCO PRODUCTS

City and County of Honolulu Ordinance 98-10

- Prohibits placement of tobacco advertisements that are visible outside from public property within 1,000 feet of school property.

Exception:

- Placement of a cigarette or tobacco product advertisement inside of a retail business establishment where the product is offered for sale to the general public, provided that the advertisement is not in a publicly visible location.

FINE: Up to \$500

ENFORCEMENT: Honolulu Police Department

SALE TO MINORS



PROHIBITS SELLING TOBACCO TO MINORS

Hawai'i State Law HRS §709-908 (Supp.2002)

It shall be unlawful to sell or furnish tobacco in any shape or form, including chewing tobacco and snuff, to a minor under eighteen years of age.

FINE FOR SELLER: First Offense: \$500

Subsequent Offenses: \$500-\$2,000

PROHIBITS TOBACCO PURCHASES BY MINORS: It shall be unlawful for a minor under eighteen years of age to purchase any tobacco product.

FINE: First Offense \$10

Subsequent Offenses: \$50 or 48 to 72 hours of community service

REQUIRED SIGNAGE

Signs using the statement, "The sale of tobacco products to persons under eighteen is prohibited," shall be posted on or near any vending machines in letters at least one-half inch high and at or near the point of sale of any other location where tobacco products are sold in letters at least one-half inch high.

FINE: First Offense: \$500

Subsequent Offenses: \$500-\$2,000

ENFORCEMENT: Police in each jurisdiction

UNOFFICIAL AGE IDENTIFICATION CARD

City and County of Honolulu

Chapter 40 Article 17 of Revised Ordinances of Honolulu

(Added by Ordinance 99-66)

- Prohibits the manufacture, sale or supply of unofficial age identification card to prevent underage youth from using fake IDs to purchase alcohol and tobacco products. These fake IDs must state “souvenir only” and “this birthdate has not been verified.”

FINE: \$2,000 maximum, one-year imprisonment or both for each violation

Prohibits the use of unofficial age identification card with false birthdate.

\$2,000 maximum for each violation; provided that, if the person is subject to the jurisdiction of the family court, the punishment shall be established by that court

ENFORCEMENT: Honolulu Police Department

DISTRIBUTION

Session Laws of Hawai‘i 2003, pursuant to Act 177, synchronizes timing of settlement moneys from the Tobacco Master Settlement and the Tobacco Master Settlement Agreement to match the timing of revenues and expenses utilized. Expands the authorized uses of the funds contained in the Tobacco Enforcement Special Fund to include the enforcement of tax stamp requirements. Transfers the moneys held in the Cigarette Tax Stamp Enforcement Special Fund.

Hawai‘i State Law HRS §328L-1 et. seq. (Supp. 2002), allocates the settlement moneys received from the Tobacco Master Settlement Agreement into various funds.

COMPLAINTS ABOUT VIOLATIONS SHOULD BE REFERRED TO:

**Hawai'i Department of Health
Tobacco Prevention and Education Program**
Phone: (808) 586-4613 / (888) 810-8112 Toll Free

City and County of Honolulu Information Office
Information Section
Phone: (808) 523-4385
Complaint Section
Phone: (808) 523-4381

**City and County of Honolulu
Department of Planning & Permitting Code Enforcement Unit #2**
Phone: (808) 527-6341

Hawai'i County District Health Office
Hilo: (808) 933-0911
Kona: (808) 322-4880

Hawai'i County Information and Complaints Office
Phone: (808) 961-8223

Kaua'i District Health Office
Phone: (808) 241-3564

**Kaua'i County
Public Information Office**
Phone: (808) 241-6303
Complaints Office
Phone: (808) 241-6304

Maui District Health Office
Phone: (808) 984-8200

Maui County Information Office
Phone: (808) 270-7866

Moloka'i:
Phone: 1-800-272-0117

For more information contact:



**Hawai'i State Department of Health
Chronic Disease Management and Control Branch
Tobacco Prevention and Education Program
1250 Punchbowl Street, #217
Honolulu, Hawai'i 96813-2416**

**Telephone (808) 586-4613 • Toll-free 1-(888) 810-8112
Fax (808) 586-8252**

NONDISCRIMINATION IN SERVICES

We provide access to our programs and activities without regard to race, color, national origin (including language), age, sex, religion, or disability. Write or call the Tobacco Control & Education Program or our departmental Affirmative Action Officer at Box 3378, Honolulu, HI 96801-3378, or at 586-4616 (voice), or 586-4648 (TT) within 180 days of a problem.